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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,181	05/23/2001	William A. Cox	CWL-101-A	9646

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EXAMINER

PETERSON, KENNETH E

ART UNIT PAPER NUMBER

3724

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

Office Action Summary	Application No.	Applicant(s)
	09/863,181	COX, WILLIAM A.
	Examiner Kenneth E Peterson	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 February 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 18-35 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 and 36-45 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

Art Unit: 3724

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8,10,11,13-15,17,36,40,41 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Fawell et al., who shows a die system with all of the recited limitations including a base (bottom of figure 1) and a plurality of columns (best seen in figure 3) that are removable (see bolt heads). Fawell also shows a cross support or cover (best seen in figure 2 as the top cross-support member). Fawell has a first modular die support (29), and a second modular die support (27) both of which are removable as seen by the bolt heads in figure 9. Fawell also has a pair of rotary dies (best seen in figure 6) that have lateral rims that engage the modular die supports to prevent lateral motion. The dies are positionable to contact one another along said rims, and this positioning is accomplished using a pressure member (2). Each modular die support has a cylindrical roller bearing (see the cylindrical bushings supporting the die rollers in figure 6). There are elements are considered to be spacers between the die supports, for example, the bottom portion of element 27.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawell et al., who shows a die module with all of the recited limitations except the columns are not of uniform cross-section along the length. However, this is a non-critical feature. It is only important for the columns to have a uniform engagement portion *in the area that the cross-members slide on them*. In this case, both Applicant's cross member and Fawell's cross member slide vertically on a limited portion of the columns, and the cross-sectional shape of the columns below the sliding area is irrelevant. The use of columns whose cross-sectional area is constant, as opposed to a column having an irregular shape below the sliding area, does not present any novel or unexpected result nor solve any stated problems. Thus it would have been obvious to one of ordinary skill in the art to have made the columns of constant cross-section, or not, as a simple matter of design choice. In re Kuhle, 188 USPQ 7.

5. Claims 1-11,13-17,36,40,41 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawell et al. in view of Stollenwerk.

Fawell, as set forth in paragraf 2 above, shows a die apparatus with all of the recited limitations except the modular die supports do not have peripherally offset rollers to support the rotating die rollers. However, such is well known as shown by Stollenwerk (52). It would have been obvious to one of ordinary skill in the art to have modified Fawell by employing peripherally offset rollers on the modular die supports, as

suggested by Stollenwerk, in order to reduce friction between the modular die support and the die roller.

6. Claims 12,37,38,39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawell et al. in view of Stollenwerk as set forth above, and further in view of Okuda.

Fawell, as modified, has columns that are non-cylindrical and of non-constant cross section. However, Okuda shows that it is well known for rotary dies (8a and 8b) to be vertically adjustable on columns that are cylindrical and of uniform cross-section (13). It would have been obvious to one of ordinary skill in the art to have employed cylindrical columns, as taught by Okuda, since they are art recognized equivalents (see MPEP 2144.06).

7. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Fawell's columns are not like his column's, but fails to distinctly point out recitations in claims 1,13 and 40 that distinguish Applicant's column's from those of Fawell's. On the other hand, Applicant has successfully amended the columns in claim 12 to distinguish over Fawell alone.

Applicant argues that Fawell's second modular die support is not mounted to the cross member. As best seen in figure 7, the second modular die support (27) is mounted on the cross member (2,2,6) via bars (26) and pins (28). The cross bar (2,2,6) has portions (bottom end of both screws 2, the portions on top of the roller) that contact

all four columns. Perhaps a recommendation to the Applicant would be the best way to clarify the rejection – if Applicant were to claim that the “entire cross member” was vertically movable on the columns, then that would distinguish over the Fawell reference, since Fawell has some cross member portions that are stationary (such as 26) and others that move on the columns (bottom end of both screws 2, the portion on top of the roller).

Applicant argues that it would not have been obvious to modify Fawell by providing roller bearings for the rotary dies, as suggested by Stollenwerk. However, it has long been known in the art that a roller bearing connection, as seen in Stollenwerk, is superior to a bushing-type arrangement, as seen in Fawell, since significantly less wear would occur with the roller bearings. One of ordinary skill would know this advantage and understand how the teachings of Stollenwerk would apply to any rotary die apparatus.

It is noted that the above rejections certainly do not make obvious Applicant’s entire invention, but are applied only because the claims are so broad. It appears that the broadly worded claims do not reflect the functional advantages that Applicant’s device has over the prior art. There are several different recitations that could be added to the claims that would distinguish them over the likes of Fawell, Stollenwerk and Okuda.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp
March 4, 2003



KENNETH E. PETERSON
PRIMARY EXAMINER